

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 15 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEMETRIUS WILLIAMS,

Defendant - Appellant.

No. 05-50510

D.C. No. CR-98-00039-MLR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted September 13, 2006**
Pasadena, California

Before: HALL, McKEOWN, and WARDLAW, Circuit Judges.

Demetrius Williams appeals the district court's judgment revoking his supervised release due to a state court conviction. We affirm. Because the parties

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

are familiar with the factual and procedural history of the case, we will not recount it here.

Williams argues that the district court erred in treating his state conviction as a felony conviction, rather than a misdemeanor conviction, relying on California Penal Code § 17(b)(3). However, Williams fails to recognize that his 90-day imprisonment in county jail was a condition of his probation, not a judgment imposing punishment. *See United States v. Robinson*, 967 F.2d 287, 293 (9th Cir. 1992). Because he was never subject to a judgment imposing punishment, § 17 does not convert his felony conviction into a misdemeanor conviction. Therefore, the district court properly treated Williams's state court conviction as a felony.

AFFIRMED.